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SUBJECT: PERUVIAN CONGRESS REAFFIRMS SUPPORT FOR
EXXON-MOBIL TAX LAW

REF: A) Lima 4370 B) Lima 3187 C) Lima 1660

11. (SBU) Summary. After a month of delay and renewed Embassy advocacy, the Congressional Plenary voted on November 10 to reaffirm its support a law granting Exxon-Mobil a \$15 million credit over the next three years. Under Peruvian Congressional procedure, the law, which dealt with economic issues, was subject to two rounds of Congressional voting. We expect President Toledo to sign the bill when he returns from his APEC Summit trip on November 22. End Summary.

Delay in Second Round of Voting

12. (SBU) The Congressional Plenary voted on October 6, 67-10, in favor of a draft law that would resolve the Exxon-Mobil dispute by granting the company a \$15 million tax credit over the next three years for VAT paid on international fuel sales. (Note: The annual profits from the Exxon-Mobil refueling operations total approximately \$500,000. The SUNAT retroactive reinterpretation of the law which led to the \$15 million tax liability would have forced the operation to close its doors and walk away from one of the few otherwise successful and well-run privatization-related concessions held by a US company. End Note.) Under Peruvian Congressional procedure, the law requires two rounds of voting. The second vote should have taken place within six working days after the first vote, or by October **114**. The Junta de Portavoces (Board of political party leaders) has the power to exempt a draft law from a second vote; this exception is often a routine matter.

13. (SBU) However, neither the second vote nor the exemption request by the Junta de Portavoces occurred in the timeframe dictated by law. Peter Hartmann, General Manager of Exxon-Mobil Peru, informed us that the delay was due to Congressman Rodrich's request for a reconsideration of the law affecting Exxon-Mobil immediately after the first vote on October 6. Rodrich took advantage of the reconsideration request and presented to Congress his own draft law, which included additional language requesting tax credits for fuel bunkering operations.

MEF Tax Amendment Passes Again

14. (SBU) On November 8, following Embassy advocacy to the Prime Minister, the Congressional Plenary discussed two issues: the Rodrich request for reconsideration of the MEF draft amendment and the second vote for the MEF draft amendment. The Plenary voted 70-4-21 against the reconsideration request. With the denial of reconsideration, the Plenary refused to entertain a motion on Rodrich's draft law. The Congressional Plenary then moved for a second vote on the MEF draft amendment, voting to uphold the MEF amendment 78-8.

15. (U) According to Peruvian law, the bill now must be sent to President Toledo for his approval before becoming law. Because President Toledo is in Korea attending the APEC Summit, the President of Congress will send the bill to the Executive for approval after President Toledo returns to Peru on November 22. We expect President Toledo to sign the bill immediately upon his return.

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